

1 BILL NO. S-92-05-02

2 1 SPECIAL ORDINANCE NO. S-85-92

3 2 AN ORDINANCE approving the awarding  
4 3 of Reference #1601 by the City of  
5 4 Fort Wayne, Indiana, by and through  
6 5 its Department of Purchasing and  
7 6 MICHAEL KINDER & SONS for the Parks  
8 7 and Recreation Department.

9 6 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL  
10 7 OF THE CITY OF FORT WAYNE, INDIANA;

11 8 SECTION 1. That Reference #1601 between the City of  
12 9 Fort Wayne, by and through its Department of Purchasing  
13 10 and MICHAEL KINDER & SONS for the Parks and Recreation  
14 11 Department, respectfully for:

15 12 the demolition and reconstruction of  
16 13 a retaining wall at Johnny Appleseed  
17 14 Park;

18 15 involving a total cost of Sixty-Six Thousand Four Hundred  
19 16 Eighty and no/100± Dollars (\$66,480.00±), all as more  
20 17 particularly set forth in said Reference #1601 which is on  
21 18 file in the Office of the Department of Purchasing, and is  
22 19 by reference incorporated herein, made a part hereof, and  
23 20 is hereby in all things ratified, confirmed and approved.

24 21 SECTION 2. That this Ordinance shall be in full  
25 22 force and effect from and after its passage and any and  
26 23 all necessary approval by the Mayor.

27 24 L R Edmund  
28 25 Council Member

29 26 APPROVED AS TO FORM  
30 27 AND LEGALITY

31 28 J. Timothy McCaulay  
32 29 J. Timothy McCaulay, City Attorney

REF. NO.: 1601  
DEPT: PARK DEPARTMENT  
DATE: 05/07/92  
ITEM/SERVICE: RETAINING WALL

PURCHASING INFORMATION

ADVERTISED BID: YES  
DATES ADVERTISED: 03/30/92 & 04/06/92  
OPENING DATE: 04/16/92  
WRITTEN QUOTE: NO  
DUE DATE:  
VERBAL QUOTE: NO  
SINGLE SOURCE: NO  
NO. OF VENDORS NOTIFIED: 8  
NO. OF VENDORS RECEIVING BID: 9  
NO. OF VENDORS RETURNING BID: 6  
NO. OF VENDORS DISQUALIFIED: 0  
NO. OF VENDORS NOT RESPONDING: 2  
DATE SENT TO DEPT FOR RECOMM: 04/20/92

DATE RECOMMENDATION REC'D IN PURCH 05/04/92

COUNCIL INFORMATION	DATES SENT	EXTENSION DATES
DATE INFO SENT TO LAW DEPT:	05/07/92	
INTRODUCTION DATE:	05/12/92	
DISCUSSION DATE:	05/19/92	
PASSAGE DATE:	05/26/92	
ORDINANCE NO:		

AMOUNT APPROVED AND/OR SPENT  
LAST YEAR:

REFERENCE NO. 1601  
JOHNNY APPLESEED RETAINING WALL RECONSTRUCTION  
PARK DEPARTMENT

VENDOR	PRICE
MICHAEL KINDER & SONS	\$66,480.00
DEHNER CONSTRUCTION INC	\$74,575.00
SHAWNEE CONSTRUCTION	\$92,035.00
MOELLERING CONSTRUCTION	\$104,000.00
C M E CORPORATION	\$107,411.00
KINDER BUILDERS, INC	\$109,950.00

## BID FORM

00310

TO: THE CITY OF FORT WAYNE, BOARD OF PARK COMMISSIONERS  
hereinafter called "Owner"

1. The undersigned, having examined the proposed Contract Documents titled:

## JOHNNY APPLESEED RETAINING WALL RECONSTRUCTION

and having visited the site and examined the conditions affecting the Work, hereby proposes and agrees to furnish all labor, materials, equipment, and appliances, and to perform operations necessary to complete the Work as required by said proposed Contract Documents, for the stipulated sum of

\$ Sixty-six thousand four hundred eighty dollars  
DOLLARS (\$ 66,480.00)

2. The undersigned understands and agrees to comply with and be bound by the instructions to bidders and the guidelines found in the advertisement for bids issued for this Work.

3. The undersigned agrees to complete the scope of work and be substantially complete in 100 calendar days, as outlined in the instructions to bidders, construction time and liquidated damages.

## BIDDER:

{ } Michael Kinder & Sons, Inc.  
 { } by Thomas J. Kinder  
 { } CORPORATE SEAL Address 5206 Decatur Road  
 { } Fort Wayne, IN 46806  
 { } License number 258  
 { } License type General Contractor - Commercial

Bid dated this 16th day of April 1992

Signature Thomas J. Kinder

END OF BID FORM

**BID OF**

Michael Kinder & Sons, Inc.

(Contractor)

5206 Decatur Road

(Address)

Fort Wayne, IN 46806

**FOR  
PUBLIC WORKS PROJECTS  
OF**

Johnny Appleseed Retaining

Wall Reconstruction

Filed April 16, 1992

Action taken

## CONTRACTORS BID FOR PUBLIC WORKS

SBA/2

## PART I

(To be completed for all bids)  
(Please type or print)Date: April 16, 1992

1. Governmental Unit: City of Ft. Wayne, Board of Park Commissioners  
 2. County: Allen  
 3. Bidder (Firm): Michael Kinder & Sons, Inc.  
 Address: 5206 Decatur Road  
 City/State: Ft. Wayne, IN 46806  
 4. Telephone Number: 744-4359  
 5. Agent of Bidder (If applicable): \_\_\_\_\_

Pursuant to notices given, the undersigned offers to furnish labor and/or material necessary to complete the public works project of CITY OF FT. WAYNE (Governmental Unit) in accordance with plans and specifications of said unit for the sum of see attached form. The undersigned further agrees to furnish a bond or certified check with this bid for an amount specified in the notice of the letting. If alternative bids apply, submit a proposal for each in accordance with the notice.

If additional units of material included in the contract are needed, the cost of units must be the same as that shown in the original contract. If the bid is to be awarded on a unit basis, the itemization of units shall be shown on a separate attachment. The Contractor and his subcontractors, if any, shall not discriminate against or intimidate any employee, or applicant for employment, to be employed in the performance of this contract, with respect to any matter directly or indirectly related to employment because of race, religion, color, sex, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

CERTIFICATION OF USE OF UNITED STATES STEEL PRODUCTS  
(If applicable)

I, the undersigned bidder or agent as a contractor on a public works project, understand my statutory obligation to use steel products made in the United States, I.C. 5-16-8-2. I hereby certify that I and all subcontractors employed by me for this project will use U.S. steel products on this project if awarded. I understand that violations hereunder may result in forfeiture of contractual payments.

## NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to induce anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

## OATH AND AFFIRMATION

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated at Fort Wayne, Indiana this 16th day of April 92

Michael Kinder & Sons, Inc.

(Name of Organization)

By Thomas J. Kinder  
President

(Title of Person Signing)

## ACKNOWLEDGEMENT

STATE OF Indiana )  
COUNTY OF Allen )  
                          } SS:

Thomas J. Kinder being duly sworn, deposes and says that he is  
 President of the above Michael Kinder & Sons, Inc. and that the  
 (Title) (Name of Organization)  
 statements contained in the foregoing bid, certification and affidavit are true and correct.

Subscribed and sworn to before me this 16th day of April 92

Patricia J. Brookmyer

My Commission Expires: October 3, 1993

County of Residence: Wells

## ACCEPTANCE

The above bid is accepted this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ subject to the following conditions: \_\_\_\_\_

## Contracting Authority Members:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## PART II

(Complete sections I, II, III and IV for all state and local public works projects as required by statutes.)

Governmental Unit:

City of Fort Wayne, Board of Park Commissioners

Bidder (Firm):

Michael Kinder &amp; Sons, Inc.

Date:

April 16, 1992

These statements to be submitted under oath by each bidder with and as a part of his bid. Attach additional pages for each section as needed.

## SECTION I EXPERIENCE QUESTIONNAIRE

1. What public works projects has your organization completed?

Contract Amount	Class of Work	When Completed	Name and Address of Owner
1,640,000	G.C.	1990	Southwest Allen County Schools
75,000	G.C.	1991	Ft. Wayne Children's Zoo
920,000	G.C.	1991	Huntington Community Schools
110,000	G.C.	1991	Ft. Wayne Community Schools

2. What public works projects has your organization now in process of construction?

Contract Amount	Class of Work	When to be Completed	Name and Address of Owner
574,790	Carpentry	1992	Whitko School Corp.

3. Have you ever failed to complete any work awarded to you? no If so, where and why?

\_\_\_\_\_

\_\_\_\_\_

4. List references from private firms for which you have performed work.

Summit Bank

General Electric Co.

GTE North, Inc.

Central Soya Co.

Parkview Memorial Hospital

## SECTION II PLAN AND EQUIPMENT QUESTIONNAIRE

1. Explain your plan or layout for performing proposed work.
2. If you intend to sublet any portion of the work, state the name and address of each subcontractor, equipment to be used by the subcontractor, and whether you expect to require a bond.
3. What equipment do you intend to use for the proposed project?
4. Have you made contracts or received offers for all materials within prices used in preparing your proposal?

## SECTION III CONTRACTOR'S FINANCIAL STATEMENT

Attachment of bidder's financial statement is mandatory. Any bid submitted without said financial statement as required by statute shall thereby be rendered invalid. The financial statement provided hereunder to the governing body awarding the contract must be specific enough in detail so that said governing body can make a proper determination of the bidder's capability for completing the project it awarded.

## SECTION IV OATH AND AFFIRMATION

I hereby affirm under the penalties of perjury that the facts and information contained in the foregoing bid for public works are true and correct to the best of my knowledge and belief.

Dated at Fort Wayne, IN this 16th day of April 92

Michael Kinder & Sons, Inc.  
(Name of Organization)

By Thomas J. Kinder

President

(Title of Person Signing)

## ACKNOWLEDGEMENT

STATE OF Indiana )  
COUNTY OF Allen )  
                          ) SS:

Thomas J. Kinder being duly sworn, deposes and says that he is  
President of the above Michael Kinder & Sons, Inc. and that the  
(Title) (Name of Organization)  
answers to the questions in the foregoing questionnaires and all statements therein contained are true and  
correct.

Subscribed and sworn to before me this 16th day of April 92

Patricia J. Brookmyer  
Notary Public

My Commission Expires: October 3, 1993  
County of Residence: Wells

NOTE 1: Use this form, if Cashier's or Certified Check accompanies bid.

Enclosed herewith, find Cashier's or Certified Check for \$ \_\_\_\_\_ being 5% of the maximum bid herein, made payable to:

THE CITY OF FORT WAYNE, INDIANA

the proceeds of which are to remain the absolute property of said City, if \_\_\_\_\_

BIDDER

shall not within 10 days after Notice of Acceptance of the within bid enter into a written contract and secure said contract by a Performance Bond for the full amount of the contract to the approval of the proper officials of said City.

=====

NOTE 2: Use this form if Bidder's Bond accompanies bids.

Enclosed herewith, find a Bidder's Bond in an amount equal to five percent (5%) of maximum bid herein, subject to the approval of the Board of Public Works, conditioned as follows:

That if the Board of Public Works shall award the contract for said work, and if Michael Kinder & Sons, Inc.

BIDDER

shall enter into a contract and furnish a 100% Performance Bond, as required, within ten days (10) from the date, he/she/it is notified of the acceptance of his/her/its bid, then the obligation of said bond shall be null and void; otherwise, to remain in full force and effect.

## **CURRENT CONTRACTUAL OBLIGATIONS**

Entries on this sheet are to cover all construction work under contract or verbal performance agreement or pending award to the contractor signing, whether as principal or as sub-contractor and with any owner including the United States Government (See Qualification Regulations).

WORK NOW UNDER CONTRACT

**Total under Contract and Unearned**

**SUBLET TO APPROVED QUALIFIED SUB-CONTRACTORS**  
(Commission Contracts Only)

### Total Sublet and Unearned

**LOW BIDS SUBMITTED, OPENED AND NOT APPROVED**

Contract Number	Bids Received by	Amount of Bids		Type of Work and Other Comments		Estimated Completion Date
	Huntington Community Schools	514,990		Remodel		8/92

**Total of Bids Pending Award**

(This Item Does Not Effect Bidding Capacity)

I hereby certify that, to the best of my knowledge and belief, the above tabulations are true and complete and that my/our latest financial statement on file with the Commission continues to represent fairly and substantially my/our financial position as of this date.

Bidder

Michael Kinder & Sons, Inc.

April 16, 1992

By Thomas J. Ladd

THE

Sub-  
contractor

# Peerless Insurance Company

Bond No. 680882

62 Maple Avenue  
Keene, New Hampshire 03431

## BID BOND

The American Institute of Architects,  
AIA Document No. A310 (February, 1970 Edition)

KNOW ALL MEN BY THESE PRESENTS, that we MICHAEL KINDER & SONS, INC.

as Principal hereinafter called the Principal, and PEERLESS INSURANCE COMPANY

a corporation duly organized under the laws of the State of New Hampshire  
as Surety, hereinafter called the Surety, are held and firmly bound unto

City of Fort Wayne, Board of Park Commissioners

as Obligee, hereinafter called the Obligee, in the sum of

Five Per Cent (5%) of Maximum Bid----- Dollars (\$ -----),  
for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

Johnny Appleseed Park Retaining Wall Reconstruction

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 16th day of April 19 92

Patricia J. Brookmyer  
(Witness)

MICHAEL KINDER & SONS, INC.  
(Principal) (Seal)  
By: Thomas J. Kinder  
(Title)

YASTE, ZENT & RYE AGENCY, INC.  
Carol J. Austin  
(Witness)

PEERLESS INSURANCE COMPANY  
(Surety) (Seal)  
John G. Miller  
(Title)  
Attorney-in-Fact

May 1, 1992

Gerald A. Dahle and/or John J. Pikel and/or Donald T. Belbutowski and/or Diane J. Green  
and/or Carol J. Austin and/or Donald H. Stoneburner

Fort Wayne

Indiana

bonds, undertakings, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof:

X

X

Read the first time in full and on motion by Edmonds, seconded by \_\_\_\_\_, and duly adopted, read the second time by title and referred to the Committee on GiaQuinta (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on 19, the 7, day of May, 1992, at 10:00 o'clock A.M., E.S.T.

DATED: 5-12-92

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by GiaQuinta, seconded by Edmonds, and duly adopted, placed on its passage. PASSED EAST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
<u>TOTAL VOTES</u>	<u>9</u>			
<u>BRADBURY</u>	<u>✓</u>			
<u>EDMONDS</u>	<u>✓</u>			
<u>GiaQUINTA</u>	<u>✓</u>			
<u>HENRY</u>	<u>✓</u>			
<u>LONG</u>	<u>✓</u>			
<u>LUNSEY</u>	<u>✓</u>			
<u>RAVINE</u>	<u>✓</u>			
<u>SCHMIDT</u>	<u>✓</u>			
<u>TALARICO</u>				

DATED: 5-26-92

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL), (SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. 185-92 on the 26th day of May, 1992.

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of May, 1992, at the hour of 3:00 o'clock A.M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29th day of May, 1992, at the hour of 11:30 o'clock A.M., E.S.T.

PAUL HELMKE, MAYOR

DIGEST SHEET

TITLE OF ORDINANCE: Special

*S-92-05-02*

DEPARTMENT REQUESTING ORDINANCE: Purchasing

SYNOPSIS OF ORDINANCE: An ordinance approving the award of Reference No. 1601 for the demolition and reconstruction of a retaining wall at Johnny Appleseed Park for the Park Department.

IF NOT LOWEST, WHO WAS AND WHY WERE THEY NOT AWARDED:

EFFECT OF PASSAGE: New wall will not present any danger to anyone.

IF REPLACEMENT, WHAT NECESSITATES: Existing wall has failed and is listing badly. It is in danger of falling over.

EFFECT OF NON-PASSAGE: The wall will eventually fall over, creating even a greater safety and liability hazard than what currently exists. If not approved, the Park Department will lost Federal Emergency Management Agency funding.

MONIES INVOLVED: Michael Kinder & Sons \$66480.00+/-

ACCOUNT INFO: Park Department 121-121-P280-4361

PRICE AGREEMENT: YES

PURCHASE ORDER: NO

SOURCE OF FUNDING: Park Department

PRIOR APPROVAL: No DATE:  
(IF APPLICABLE)

BILL NO. S-92-05-02

REPORT OF THE COMMITTEE ON  
FINANCE

MARK E. GIAQUINTA, CHAIR  
DONALD J. SCHMIDT, VICE CHAIR  
EDMONDS, RAVINE

WE, YOUR COMMITTEE ON FINNACE TO WHOM WAS

REFERRED AN (ORDINANCE) (RESOLUTION) approving the awarding of Reference #1601 by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and MICHAEL KINDER & SONS, for the Parks and Recreation Department

HAVE HAD SAID (ORDINANCE) (RESCINNCE) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (RESCINNCE)

DO PASS

Q.S.

Alley

DO NOT PASS

\_\_\_\_\_

\_\_\_\_\_

—

## ABSTAIN

1000

1000

NO REC

1000

111

DATED: 5-26-82.

Sandra E. Kennedy  
City Clerk